

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1246

AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-4-11-0.4, AS ADDED BY P.L.220-2011, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 0.4. (a) On May 15, 2005, all powers, duties, agreements, and liabilities of the treasurer of state, the auditor of state, the department of environmental management, and the budget agency with respect to:

- (1) the wastewater revolving loan program established by IC 13-18-13-1;
- (2) the drinking water revolving loan program established by IC 13-18-21-1; and
- (3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;

are transferred to the authority, as the successor agency, for the limited purposes described in subdivisions (1) through (3).

(b) On May 15, 2005, all records, money, and other property of the treasurer of state, the auditor of state, the department of environmental management, and the budget agency with respect to:

- (1) the wastewater revolving loan program established by IC 13-18-13-1;
- (2) the drinking water revolving loan program established by IC 13-18-21-1; and
- (3) the supplemental drinking water and wastewater assistance

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program established by IC 13-18-21-21;
are transferred to the authority as the successor agency for the limited purposes described in subdivisions (1) through (3).

(c) On May 15, 2005, all powers, duties, agreements, and liabilities of the Indiana bond bank, the Indiana department of environmental management, and the budget agency with respect to:

- (1) outstanding bonds issued for:
 - (A) the wastewater revolving loan program established by IC 13-18-13-1; or
 - (B) the drinking water revolving loan program established by IC 13-18-21-1; and
- (2) any trust agreement or indenture, security agreement, purchase agreement, or other undertaking entered into in connection with the bonds described in subdivision (1);

are transferred to the authority, as the successor agency, for the limited purposes described in subdivisions (1) and (2). The rights of the trustee and the bondholders with respect to any bonds or any trust agreement or indenture, security agreement, purchase agreement, or other undertaking described in this subsection remain the same, although the powers, duties, agreements, and liabilities of the Indiana bond bank have been transferred to the authority and the authority shall be considered to have assumed all those powers, duties, agreements, and liabilities as if the authority were the Indiana bond bank for those limited purposes.

(d) On July 1, 2016, all powers, duties, agreements, and liabilities of the treasurer of state, the auditor of state, the department of natural resources, the natural resources commission, and the budget agency with respect to:

- (1) the flood control program established by IC 14-28-5-1; and**
 - (2) the flood control revolving fund created by IC 14-28-5-5;**
- are transferred to the authority, as the successor agency, for the limited purposes described in subdivisions (1) and (2).**

(e) On July 1, 2016, all records, money, and other property of the treasurer of state, the auditor of state, the department of natural resources, the natural resources commission, and the budget agency with respect to:

- (1) the flood control program established by IC 14-28-5-1; and**
 - (2) the flood control revolving fund created by IC 14-28-5-5;**
- are transferred to the authority as the successor agency for the limited purposes described in subdivisions (1) and (2).**



SECTION 2. IC 6-1.1-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. If in the state forester's opinion an application filed under section 11 of this chapter and the land to be classified comply with the provisions of this chapter, the state forester shall approve the application. In addition, the state forester shall notify the ~~auditor~~ **assessor** of the county in which the land is located that the application has been approved and return one (1) approved application form to the applicant.

SECTION 3. IC 6-1.1-6-13, AS AMENDED BY P.L.66-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 13. If an application filed under section 11 of this chapter is approved, the applicant shall record the approved application in the applicant's name. However, if the applicant is a partnership, corporation, limited liability company, or association, the applicant shall record the approved application in the name of the partnership, corporation, limited liability company, or association. When an approved application is properly recorded, the county ~~auditor~~ **assessor** shall enter the land for taxation at an assessed value determined under section 14 of this chapter.

SECTION 4. IC 6-1.1-6-23, AS AMENDED BY P.L.66-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 23. If land classified as native forest land, a forest plantation, or wildlands is withdrawn from the classification, the state forester shall immediately notify the ~~auditor~~ **assessor** of the county in which the land is situated that the land has been withdrawn. In addition, when land is withdrawn, the owner of the land shall make a notation of the withdrawal in the records of the county recorder on forms provided by the state forester.

SECTION 5. IC 14-8-2-125, AS AMENDED BY P.L.167-2011, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 125. "Historic site" **has the following meanings:**

(1) For purposes of IC 14-21-1, means a site that is important to the general, archeological, agricultural, economic, social, political, architectural, industrial, or cultural history of Indiana. The term includes adjacent property that is necessary for the preservation or restoration of the site.

(2) For purposes of IC 14-22-6, the meaning set forth in IC 4-37-1-7.

SECTION 6. IC 14-8-2-155 IS REPEALED [EFFECTIVE JULY 1, 2016]. Sec. ~~155~~: "Local unit", for purposes of IC ~~14-28-5~~, has the meaning set forth in IC ~~14-28-5-4~~.

SECTION 7. IC 14-8-2-278 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 278. "Take" has the following meaning:

(1) For purposes of IC 14-22, except as provided in ~~subdivision~~ **subdivisions (2) and (3):**

(A) to kill, shoot, spear, gig, catch, trap, harm, harass, or pursue a wild animal; or

(B) to attempt to engage in such conduct.

(2) For purposes of IC 14-22-6-16, the meaning set forth in IC 14-22-6-16(b).

~~(2)~~ **(3)** For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-5.

SECTION 8. IC 14-9-4-1, AS AMENDED BY P.L.151-2012, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. The following divisions are established within the department:

- (1) Accounting.
- (2) Administrative support services.
- (3) Budget.
- (4) Engineering.
- (5) Entomology and plant pathology.
- (6) Fish and wildlife.
- (7) Forestry.
- (8) Historic preservation and archeology.
- (9) Human resources.
- (10) Internal audit.
- (11) Land acquisition.
- (12) Law enforcement.
- (13) Management information systems.
- (14) Nature preserves.
- (15) Oil and gas.
- (16) Outdoor recreation.
- (17) ~~Public information and education.~~ **Communications.**
- (18) Reclamation.
- (19) Reservoir management.
- (20) Safety and training.
- (21) State parks.
- (22) Water.
- (23) State land office.

SECTION 9. IC 14-15-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. (a) This section does not apply to the following:

- (1) A sailboard or windsurfing board.

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(2) A manually propelled boat, such as a racing shell, rowing scull, or racing kayak:

(A) that is recognized by national or international racing associations for use in competitive racing;

(B) in which all occupants row, scull, or paddle, with the exception of a coxswain if a coxswain is provided; and

(C) that is designed to carry and carries equipment only for competitive racing.

(b) All boats must be equipped with the number and type of personal flotation devices listed in this subsection. A person may not operate a boat unless the boat contains:

(1) for each person on board, one (1) personal flotation device that meets the requirements for designation by the United States Coast Guard as a ~~Type I, Type II, Type III, or Type V~~ **wearable** personal flotation device; and

(2) for a boat, except a canoe or kayak, at least sixteen (16) feet in length and in addition to the requirements of subdivision (1), one (1) personal flotation device that meets the requirements for designation by the United States Coast Guard as a ~~Type IV~~ **throwable** personal flotation device.

(c) The director may waive the requirements of this section for a boat during competition in a boat race for which a permit has been issued by the department if the following conditions are met:

(1) The sponsor of the boat race has informed the director of the precautions the sponsor will take to minimize the safety hazards that exist due to noncompliance with the requirements of this section.

(2) The sponsor files with the director a document under which the sponsor assumes all liability that may result from the use of a boat under the waiver.

SECTION 10. IC 14-15-2-15, AS AMENDED BY P.L.195-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 15. (a) A person who violates section 1, 2, 3, 4, 5, 6, 7(b), 9, 10, **11**, 12, 13, or 14 of this chapter commits a Class C infraction.

(b) A person who violates section 7(c) or 8 of this chapter commits a Class A infraction. Notwithstanding IC 34-28-5-4(a), a judgment of at least one thousand dollars (\$1,000) shall be imposed for each Class A infraction committed in violation of section 7(c) or 8 of this chapter.

SECTION 11. IC 14-15-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) The operator of a boat involved in an accident or a collision resulting in:



- (1) injury to or death of a person; or
 - (2) damage to a boat or other property to an apparent extent of at least seven hundred fifty dollars (\$750);
- shall provide the information required under subsection (b).
- (b) An operator of a boat subject to subsection (a) shall do the following:

- (1) Give notice of the accident to:
 - (A) the office of the sheriff of the county;
 - (B) the nearest state police post; or
 - (C) ~~the nearest conservation office;~~ **central dispatch center for the law enforcement division of the department;**
 immediately and by the quickest means of communication.
- (2) Mail to the department a written report of the accident or collision within twenty-four (24) hours of the accident or collision.

SECTION 12. IC 14-15-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) The department may adopt rules under IC 4-22-2 to implement this article concerning the following:

- (1) Applications for and the issuance of permits and certificates required by this article.
- (2) The conduct of watercraft races.
- (3) Standards of safety for boats used to carry passengers for hire, the determination of the maximum weight that may safely be carried on boats, and the inspection of boats.
- (4) The safe operation of watercraft upon public water where unusual conditions or hazards exist, such as any of the following:
 - (A) An obstruction in or along public water.
 - (B) Watercraft traffic congestion.
 - (C) A beach, boat launch, marina, dam, spillway, or other recreational facility on or adjacent to public water.
- (5) The placement, location, and maintenance of the following structures upon public water:
 - (A) Buoys.
 - (B) Markers.
 - (C) Flags.
 - (D) Devices that are used for the purposes of swimming or extending the use of water skis, water sleds, or aquaplanes.
- (6) The establishment of zones where the use of watercraft may be limited or prohibited for the following purposes:
 - (A) Fish, wildlife, or botanical resource management.
 - (B) The protection of users.



(7) The regulation of watercraft engaged in group or organized activities or tournaments.

(b) In a rule adopted under subsection (a)(4) or (a)(6), the department may establish a zone where:

- (1) the operation of all or some types of watercraft is prohibited;
- (2) particular activities are restricted or prohibited; or
- (3) a limitation is placed on the speed at which a watercraft may be operated.

(c) A person who violates this section commits a Class C infraction.

SECTION 13. IC 14-15-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8. A person shall not operate a personal watercraft on public waters unless every individual:

- (1) operating;
- (2) riding on; or
- (3) being towed by;

the personal watercraft is wearing a personal flotation device that meets the requirements for designation by the United States Coast Guard as a ~~Type I, Type II, Type III, or Type V~~ **wearable** personal flotation device, if applicable.

SECTION 14. IC 14-16-1-32 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 32. A vehicle that is:**

- (1) from another state or country and is not registered in that state or country; and**
- (2) owned by a nonresident of Indiana;**

may be operated on designated trails and properties owned or managed by the department if the operator of the vehicle pays a fee set by the commission for an annual trail use tag.

SECTION 15. IC 14-22-6-13, AS AMENDED BY P.L.219-2014, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 13. If the director:

- (1) determines that a species of wild animal present within a state park **or historic site** poses an unusual hazard to the health or safety of one (1) or more individuals;
- (2) determines, based upon the opinion of a professional biologist, that it is likely that:
 - (A) a species of wild animal present within a state park **or historic site** will cause obvious and measurable damage to the ecological balance within the state park **or historic site**; and
 - (B) the ecological balance within the state park **or historic site** will not be maintained unless action is taken to control the



population of the species within the state park **or historic site**;
or

(3) is required under a condition of a lease from the federal government to manage a particular wild animal species;
the director shall authorize the taking of a species within the state park **or historic site** under rules adopted under IC 4-22-2.

SECTION 16. IC 14-22-6-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) This section does not apply to the following:**

- (1) The department or the department's designee.**
- (2) Employees or agents of a governmental entity while performing official duties.**
- (3) Employees or agents of an educational or research institution acting for bona fide educational or scientific purposes.**
- (4) Use of an unmanned aerial vehicle to assist, provide care for, or provide veterinary treatment to a specific wild animal.**
- (5) Use of an unmanned aerial vehicle to monitor areas of agricultural production or to monitor nuisance wild animals.**
- (b) As used in this section, "take" means to:**
 - (1) kill, shoot, spear, harm, catch for the purpose of killing, trap for the purpose of killing, or pursue for the purpose of killing a wild animal; or**
 - (2) attempt to engage in conduct under subdivision (1).**
- (c) During the period:**
 - (1) beginning fourteen (14) days before the hunting season for a particular wild animal species; and**
 - (2) ending upon the expiration of legal hunting hours on the last day of the hunting season;**

a person may not knowingly use an unmanned aerial vehicle (as defined by IC 35-33-5-0.5(7)) to search for, scout, locate, or detect a wild animal to which the hunting season applies as an aid to take the wild animal.

SECTION 17. IC 14-22-7-3, AS AMENDED BY P.L.151-2012, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 3. (a)** An individual may not hunt a migratory waterfowl within Indiana without having an electronically generated migratory waterfowl stamp issued by the department. The stamp must be in the possession of each individual hunting a migratory waterfowl. The licensee shall validate the stamp with the signature, in ink, of the licensee on the hunting license on which the electronically generated



form of the stamp is attached.

~~(b) The department shall determine the form of the migratory waterfowl stamp and may create and sell commemorative migratory waterfowl stamps.~~

SECTION 18. IC 14-22-8-4, AS AMENDED BY P.L.151-2012, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. ~~(a)~~ An individual may not hunt a game bird within Indiana without having an electronically generated game bird habitat restoration stamp issued by the department. The stamp must be in the possession of each individual hunting a game bird. The licensee shall validate the stamp with the signature of the licensee on the hunting license on which the electronically generated form of the stamp is attached.

~~(b) The department shall determine the form of the stamp and may create and sell commemorative game bird habitat restoration stamps.~~

SECTION 19. IC 14-22-11-1, AS AMENDED BY P.L.194-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) As used in this section, "farmland" means agricultural land that is:

- (1) devoted or best adaptable for the production of crops, fruits, timber, and the raising of livestock; or
- (2) assessed as agricultural land for property tax purposes.

(b) An individual may not take or chase, with or without dogs, a wild animal without having a license, except as follows:

- (1) An individual who is a resident or nonresident of Indiana while participating in a field trial that has been sanctioned by the director is not required to possess a license while participating in the trial.
- (2) Subject to subsection (d), an owner of farmland located in Indiana who is a resident or nonresident of Indiana and the spouse and children living with the owner may hunt, fish, and trap without a license on the land that the owner owns.
- (3) A lessee of farmland who farms that land and is a resident of Indiana and the spouse and children living with the lessee may hunt, fish, and trap without a license on the leased land. This subdivision does not apply to land that is:
 - (A) owned, leased, or controlled by; and
 - (B) leased from; the department.
- (4) An individual who:
 - (A) is less than thirteen (13) years of age;
 - (B) does not possess a bow or firearm; and



- (C) is accompanying an individual who:
 - (i) is at least eighteen (18) years of age; and
 - (ii) holds a valid license;
 may chase a wild animal without having a license.
- (5) The manager of a public use airport (as defined by 49 U.S.C. 47102(22)), or the manager's designee, may chase or take ~~except by trapping~~ at any time, without a license, a:
 - (A) white-tailed deer, **except by trapping**;
 - (B) coyote;
 - (C) wild turkey, **except by trapping**; or
 - (D) migratory bird;

that poses a threat to aircraft within the airport operations area.

(c) The exceptions provided in this section do not apply to a commercial license issued under this article.

(d) The right of a nonresident who owns farmland in Indiana (and of the spouse and children who reside with the nonresident) to hunt, fish, and trap on the farmland without a license under subsection (b)(2) is subject to the following conditions:

- (1) The nonresident may hunt, fish, and trap on the farmland without a license only if the state in which the nonresident resides allows residents of Indiana who own land in that state to hunt, fish, and trap on their land without a license.
- (2) While hunting, fishing, or trapping on the farmland, the nonresident must keep proof that the nonresident owns the farmland (for example, a tax receipt identifying the nonresident as owner) in a place where the proof is readily accessible by the nonresident.

(e) The manager of a public use airport (as defined by 49 U.S.C. 47102(22)), or the manager's designee, shall report annually to the department the following:

- (1) The number of animals killed under subsection (b)(5) by species.
- (2) The date the animal was taken.
- (3) The name and address of the person who took the animal, other than a migratory bird.
- (4) The disposition of the animal.
- (5) The name and address of the person to whom the animal was given as a gift or donated (if applicable).

A copy of the report must be kept at the public use airport (as defined by 49 U.S.C. 47102(22)) and be available upon request to an employee of the department. White-tailed deer and wild turkeys must be tagged or accompanied by a piece of paper that includes the name and address



of the person who took the deer or wild turkey, the date the deer or wild turkey was taken, and the location where the deer or wild turkey was taken before processing of the deer or wild turkey begins. However, it is not a violation of this subsection if the manager of a public use airport (as defined by 49 U.S.C. 47102(22)), or the manager's designee, fails to submit an annual report under this subsection, as long as the manager of a public use airport (as defined by 49 U.S.C. 47102(22)), or the manager's designee, provides the relevant information requested by the department not later than fourteen (14) calendar days after receiving a request from the department. If the manager of a public use airport (as defined by 49 U.S.C. 47102(22)) or the manager's designee does not provide the information requested by the department within the required fourteen (14) day period, the manager of the public use airport (as defined by 49 U.S.C. 47102(22)) and any designee of the manager are required to obtain a permit from the department to chase or take a wild animal during the following calendar year.

SECTION 20. IC 14-22-24.5 IS REPEALED [EFFECTIVE JULY 1, 2016]. (Dog Training Ground Permit).

SECTION 21. IC 14-22-38-7, AS AMENDED BY P.L.289-2013, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) As used in this section, "hunter orange" means a daylight fluorescent orange with the dominant wavelength 595-605 nm, a purity of not less than eighty-five percent (85%), and a luminance factor of not less than forty percent (40%).

(b) As used in this section, "wear hunter orange" means to expose on one's person as an outer garment one (1) or more of the following articles of clothing that are solid hunter orange in color:

- (1) A vest.
- (2) A coat.
- (3) A jacket.
- (4) Coveralls.
- (5) A hat.
- (6) A cap.

However, articles of clothing specified under this section with logos, patches, insignia, or printing that does not substantially hinder the visibility of the hunter orange material are allowed under this section.

(c) ~~This subsection applies only during the season when hunting by firearms (as defined in IC 14-22-40-3) is permitted under 312 IAC. A person who hunts for:~~

- ~~(1) deer by firearm or bow and arrow;~~
- ~~(2) cottontail rabbit;~~
- ~~(3) squirrel, unless from a boat, during the period:~~



(A) beginning on the first Friday that follows November 3; and

(B) ending on January 31 of the following year;

(4) woodcock;

(5) pheasant;

(6) quail; or

(7) ruffed grouse;

must wear hunter orange.

(d) (c) A person who violates the requirement to:

(1) wear hunter orange; or

(2) display hunter orange on an occupied ground blind;

as specified in 312 IAC 9 commits a Class D infraction.

SECTION 22. IC 14-28-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. As used in this chapter, "flood control program" includes the following:

(1) The removal of obstructions and accumulated debris from channels of streams.

(2) The clearing and straightening of channels of streams.

(3) The creating of new and enlarged channels of streams, wherever required.

(4) The building or repairing of dikes, levees, or other flood protective works.

(5) The construction of bank protection works for streams.

(6) The establishment of floodways.

(7) Conducting all other activities that are permitted by the federal Flood Control Act and federal Clean Water Act.

SECTION 23. IC 14-28-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. As used in this chapter, "governing board" means the following:

(1) The legislative body of a county, city, or town.

(2) A board created by law to administer the affairs of a special taxing district: **the participant.**

SECTION 24. IC 14-28-5-4 IS REPEALED [EFFECTIVE JULY 1, 2016]. Sec. 4. As used in this chapter, "local unit" means county, city, town, or special taxing district created by law.

SECTION 25. IC 14-28-5-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4.5. As used in this chapter, "participant" means any of the following:

(1) A political subdivision as defined in IC 36-1-2-13.

(2) A regional water, sewage, or solid waste district organized under IC 13-26-1.

(3) A conservancy district established for purpose set forth in



IC 14-33-1-1(a)(5).

(4) An owner of a wastewater treatment system that is authorized by the federal Clean Water Act to borrow from the wastewater revolving loan program established under IC 13-18-13.

SECTION 26. IC 14-28-5-5, AS AMENDED BY P.L.155-2015, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) The flood control revolving fund is created **to provide money for loans and financial assistance to or for the benefit of participants under this chapter.** The authority shall hold the fund in the name of the authority. The authority shall administer the fund in the manner provided by IC 4-4-11 and this chapter.

(b) Loans **and financial assistance** may be made from the fund to ~~local units~~ **participants** in accordance with **the manner provided by IC 4-4-11 and this chapter.** ~~and the rules adopted under this chapter.~~

(c) Money in the fund does not revert to the state general fund. The fund is a revolving fund to be used exclusively for the purposes of this chapter.

SECTION 27. IC 14-28-5-6 IS REPEALED [EFFECTIVE JULY 1, 2016]. Sec. 6: Except as otherwise provided with respect to the administration of the fund; the commission shall administer this chapter. The commission may do the following:

(1) Adopt rules under IC 4-22-2 that are considered necessary by the commission for the proper administration of this chapter.

(2) Subject to the approval of the budget committee; employ the personnel that are necessary for the efficient administration of this chapter.

SECTION 28. IC 14-28-5-7, AS AMENDED BY P.L.155-2015, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. ~~(a)~~ The authority may make an approved loan **or provide other financial assistance** from the fund to a ~~local unit~~ **participant.** The money loaned **or provided** is to be used by the ~~local unit~~ **participant** for the purpose of instituting, accomplishing, and administering an approved flood control program.

~~(b) The total amount outstanding under loans made under:~~

~~(1) this chapter; and~~

~~(2) IC 13-2-23 (before its repeal);~~

~~to one (1) local unit may not exceed three hundred thousand dollars (\$300,000).~~

SECTION 29. IC 14-28-5-8, AS AMENDED BY P.L.155-2015, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8. A ~~local unit~~ **participant** may institute,



accomplish, and administer a flood control program if the following conditions are met:

- (1) The program is authorized and approved by ordinance or resolution enacted by the governing board of the ~~local unit~~ **participant**.
- (2) The flood control program has been approved by the authority. ~~and the commission~~.

SECTION 30. IC 14-28-5-9, AS AMENDED BY P.L.155-2015, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9. The authority shall authorize the making of a loan **or providing other financial assistance** to a ~~local unit~~ **participant** under this chapter only when the following conditions exist:

- (1) An application for the loan **or other financial assistance** has been submitted by the ~~local unit~~ **participant** to the authority in the manner and form that the authority directs. The application must state the following:
 - (A) The need for the flood control program and the need for money for instituting, accomplishing, and administering the program.
 - (B) A detailed description of the program.
 - (C) An engineering estimate of the cost of the proposed program acceptable to the authority. ~~and the commission~~.
 - (D) The amount of money considered to be needed.
 - (E) Other information that is requested by the authority. ~~and the commission~~.
- (2) There is a need, as determined by the ~~commission~~ **authority**, for the proposed flood control program for the purpose of protecting the health, safety, and general welfare of the inhabitants of the ~~local unit~~ **participant's jurisdiction**.
- (3) The proposed flood control program has been approved by the ~~commission~~; if before granting the approval, the ~~commission~~ determines the following:
 - (A) That the program:
 - (i) is based upon sound engineering principles;
 - (ii) is in the interest of flood control; and
 - (iii) will accomplish the objectives of flood control.
 - (B) That for flood control programs involving the reconstruction or repair of existing flood control works that:
 - (i) in the judgment of the ~~commission~~; constitutes an unreasonable obstruction or impediment to the proper discharge of flood flows; or



(ii) by virtue of their nature, location, or design, are subject to frequent damage or destruction;
approval is limited to the work that is necessary to afford emergency protection against actual or threatened damage to life and property.

(4) (3) The ~~local unit~~ **participant** agrees and furnishes assurance, satisfactory to the ~~commission~~ **authority**, that the ~~local unit~~ **participant** will operate and maintain the flood control program, after completion, in a satisfactory manner.

SECTION 31. IC 14-28-5-10, AS AMENDED BY P.L.53-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 10. (a) The ~~local unit~~ **participant** may:

- (1) do work; and
- (2) provide labor, equipment, and materials from any source at the ~~local unit's~~ **participant's** disposal;

for the flood control program.

(b) The ~~commission~~ **authority** may do the following:

- (1) Evaluate the participation of the ~~local unit~~ **participant** in the accomplishment of the project.
- (2) Compute the participation as a part or all of the share of cost that the ~~local unit~~ **participant** is required to pay toward the total cost of the project for which the loan **or other financial assistance** from the fund is obtained.

(c) Participation authorized under this section must be under the direction of the governing board.

(d) If cash amounts are included in the ~~local unit's~~ **participant's** share of total cost, the amounts shall be provided in the usual and accepted manner for the financing of the affairs of the ~~local unit~~ **participant**.

(e) Costs of engineering and legal services to the borrower may be regarded as a part of the total cost of the project.

SECTION 32. IC 14-28-5-11, AS AMENDED BY P.L.53-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11. (a) The ~~commission~~ **authority** shall determine and ascribe to each applicant for a loan **and financial assistance** a priority rating. The rating must be based primarily on the need of the ~~local unit~~ **participant** for the proposed flood control program as the need is related to the needs of other applicants for loans **and financial assistance**. Except as provided in subsection (b):

- (1) the ~~local units~~ **participants** having the highest priority rating shall be given first consideration in making loans **and providing financial assistance** under this chapter; and



(2) loans **and financial assistance** shall be made in descending order as shown by the priority ratings.

(b) If an emergency demands immediate relief from actual or threatened flood damage, the application made by a ~~local unit~~ **participant** for a loan **or financial assistance** may be considered regardless of a previous priority rating ascribed to the applicant.

SECTION 33. IC 14-28-5-12 IS REPEALED [EFFECTIVE JULY 1, 2016]. ~~Sec. 12: (a) A loan made under this chapter or under IC 13-2-23 (before its repeal):~~

~~(1) may be made for a period not to exceed ten (10) years; and~~

~~(2) bears interest at the rate of three percent (3%) a year.~~

~~(b) A local unit receiving a loan under this chapter shall agree to repay the loan in equal annual installments, including interest on the unpaid balance of the loan. The repayments, including interest, become part of the fund and do not revert to the state general fund. However, if a local unit levies a tax as provided in this chapter, the first installment of the loan becomes due and payable out of money first received from the levying and the collection of a tax authorized under this chapter. A borrower may prepay a loan in full or in part without interest penalty.~~

SECTION 34. IC 14-28-5-12.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 12.1. (a) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan and other financial assistance made under this chapter, including parameters for establishing the amount of interest subsidies.**

(b) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan and other financial assistance, may take into account the following:

(1) Credit risk.

(2) Environmental enforcement and protection.

(3) Affordability.

(4) Other fiscal factors the authority considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans and other financial assistance to different participants or for different loans and other financial assistance to the same participants.

SECTION 35. IC 14-28-5-12.3 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 12.3. A participant receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement with the authority. A financial assistance agreement is a valid, binding, and enforceable agreement on the participant.**

SECTION 36. IC 14-28-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 13. A ~~local unit~~ participant receiving a loan or other financial assistance under:**

- (1) this chapter; or
- (2) IC 13-2-23 (before its repeal);

may levy an annual tax on personal and real property located within the geographical limits of the ~~local unit~~ **participant** for flood control purposes. The tax is in addition to any other tax authorized by law to be levied for flood control purposes. The tax shall be levied at the rate that will produce sufficient revenue to pay the annual installment and interest on a loan **or other financial assistance** made under this chapter or under IC 13-2-23 (before its repeal). The tax at the rate authorized in this section is in addition to the maximum annual rates prescribed by law.

SECTION 37. IC 14-28-5-14, AS AMENDED BY P.L.155-2015, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 14. If a ~~local unit~~ participant fails to make a payment to the fund or any other payment required by this chapter or under IC 13-2-23 (before its repeal) or is in any way indebted to the fund for an amount incurred or accrued, the state may recover the amount through any of the following:**

- (1) The state may, through the attorney general and on behalf of the authority, file a suit in the circuit or a superior court with jurisdiction in the county in which the ~~local unit~~ **participant** is located to recover the amount that the ~~local unit~~ **participant** owes the fund.
- (2) The auditor of state may, after a sixty (60) day written notice to the ~~local unit~~, **participant**, withhold the payment and distribution of state money that the defaulting ~~local unit~~ **participant** is entitled to receive under Indiana law.
- (3) For a special taxing district, upon certification by the auditor of state after a sixty (60) day written notice to the special taxing district, the auditor of each county containing land within the special taxing district shall withhold collected tax money for the special taxing district and remit the withheld tax money to the auditor of state. The auditor of state shall make a payment to the



fund in the name of the special taxing district. Upon elimination of the delinquency payment, the auditor of state shall certify the fact to the auditors of the counties involved and any additional withheld tax money shall be released to the special taxing district.

SECTION 38. IC 14-28-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 15. There is appropriated annually to the ~~commission~~ **authority** from the state general fund from money not otherwise appropriated an amount sufficient to administer this chapter, subject to the approval of the budget committee.

SECTION 39. IC 14-31-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) As used in this chapter, "ginseng dealer" means a person who buys **or sells** ginseng roots from ginseng harvesters or other ginseng dealers for resale or exportation.

(b) The term does not include a person who sells solely for domestic consumption.

SECTION 40. IC 14-31-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 15. A ginseng dealer who:

- (1) purchases **or sells** ginseng **for resale or exportation** without a license; or
- (2) obtains a license because of a false or an incorrect statement; commits a Class B misdemeanor.

SECTION 41. IC 14-34-19-12, AS AMENDED BY P.L.165-2011, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) Within six (6) months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the director:

- (1) shall itemize the money expended; and
- (2) **if a lien reveals an increase in the property value of at least twenty-five thousand dollars (\$25,000) per landowner per project**, may, subject to subsection (b), ~~file~~ **have an independent appraisal conducted**. A statement **may be filed** with the county recorder in the county in which the land lies together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices if the money expended results in a significant increase in property value. The statement constitutes a lien upon the land. The lien may not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the



restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

(b) A lien may not be filed against the property of a person under subsection (a) who did not:

- (1) consent to;
- (2) participate in; or
- (3) exercise control over;

the mining operation that necessitated the reclamation **work** performed under this chapter.

(c) The landowner may petition within sixty (60) days of the filing of the lien to determine the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount reported to be the increase in value of the premises constitutes the amount of the lien and shall be recorded with the statement filed under subsection (a). A party aggrieved by the decision may appeal as provided by law.

(d) The director shall record the lien with the county recorder in the county in which the land is located. The statement:

- (1) constitutes a lien upon the land as of the date of the expenditure of the money; and
- (2) has priority as a lien second only to the lien of real estate taxes imposed upon the land.

SECTION 42. IC 25-36.5-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. The application fee or renewal fee for a registration certificate to operate as a timber buyer, is one hundred ~~five~~ **thirty** dollars (~~\$105~~). (**\$130**). The fee for a certificate stating that a registration certificate has been issued and security filed is twenty dollars (\$20). All fees collected by the department accrue to the use of the department for its administrative purposes.

SECTION 43. IC 25-36.5-1-15, AS AMENDED BY P.L.155-2015, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 15. (a) An individual who acts as the agent of a timber buyer must have an agent's license and carry the agent's card that verifies the license.

(b) An agent's license may be granted only:

- (1) to qualified individuals;
- (2) at the written application of the timber buyer who the agent is to represent; and
- (3) under that timber buyer's registration certificate.

(c) The application for an agent's license must contain the agent's



full name, address, and other information as required by the department on forms supplied by the department. Each timber buyer is responsible for all of the agent's activities performed while acting under the timber buyer's registration certificate as they pertain to this chapter.

(d) An application fee of ~~ten~~ **twenty** dollars (~~\$10~~) (**\$20**) for each agent shall be charged for the license and agent's card.

(e) An agent's license may be revoked by the department under IC 4-21.5 if the agent does not comply with this section.

(f) An agent may have a license to represent only one (1) timber buyer. However, upon surrendering the agent's card and license under one (1) timber buyer, an individual may be licensed as an agent of another timber buyer.

(g) A timber buyer may not be licensed as an agent except as the principal agent of that timber buyer.

(h) A timber buyer may not effect or attempt to effect a purchase except through an agent.

(i) A timber buyer may terminate an agency relationship by notifying in writing the agent and the department. Termination of an agency relationship revokes the agent's license.

(j) A person who acts as an agent without a license commits a Class B misdemeanor.

SECTION 44. P.L.155-2015, SECTION 29, IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~SECTION 29: (a) Any rules adopted by the natural resources commission under IC 14-28-5 and that were in effect on June 30, 2015, remain in effect until rules are adopted under IC 14-28-5 by the Indiana finance authority.~~

~~(b) This SECTION expires July 1, 2020.~~

SECTION 45. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1246 — Concur

